

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:	§	CASE NO. 19-33443-H2-7
	§	
WILLIAM S. MARTIN and	§	
JENNIFER A MARTIN,	§	
Debtor	§	CHAPTER 7
	§	
WELLS FARGO BANK, N.A.,	§	
Movant	§	HEARING DATE: 08/26/2019
	§	
v.	§	TIME: 01:30 PM
	§	
WILLIAM S. MARTIN and	§	
JENNIFER A MARTIN; and RANDY	§	
W. WILLIAMS, Trustee	§	
Respondents	§	JUDGE DAVID R. JONES

**MOTION FOR RELIEF FROM THE STAY REGARDING NON-EXEMPT PROPERTY  
AND REQUEST FOR VARIANCE**

**THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN AUGUST 19, 2019 AND YOU MUST ATTEND THE HEARING.**

**THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN 7 DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON AUGUST 26, 2019 AT 1:30 PM IN COURTROOM 400, 515 RUSK AVENUE, 4TH FLOOR, HOUSTON, TX 77002.**

**Request for Variance**

1. Pursuant to National Servicing Standards, Movant must state the name of the entity that may proceed with foreclosure once the automatic stay is terminated in the instant bankruptcy case. Therefore Movant requests a variance to include the additional disclosures in the motion.
  
2. The pay history attached to and filed with this motion does not begin with the inception of the loan. A pay history from at least as far back as the date the debtor was last current is, however, attached to this motion and that pay history reflects the payments and their application for the period of the alleged default. Movant therefore requests that a variance from the requirement that a pay history from inception be filed because it is not relevant to this Motion.

the loan was last current and is dispositive of the alleged default.

3. This Motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on or to repossess the property that is identified in paragraph 6.

4. Movant: WELLS FARGO BANK, N.A.

5. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

6. Movant, directly or as agent for the holder, holds a security interest in certain real property of the Debtor(s) having an address of

1470 MERION DR  
MOUNT DORA, FL 32757-8721

and a legal description of:

LOT 2, WOLF CREEK RIDGE PHASE 1, ACCORDING TO THE MAP OR PLAT  
THEREOF, AS RECORDED IN PLAT BOOK 57, PAGE(S) 77 THROUGH 82,  
INCLUSIVE, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

7. Movant has reviewed the schedules filed in this case. The property described in paragraph 6 is not listed on debtor(s)' Schedule C.

8. Type of collateral (e.g. Home, Manufactured Home, Car, Truck, Motorcycle): Real Estate property Home.

9. Debtor's scheduled value of property: \$250,000.00.

10. Movant's estimated value of property: \$250,000.00.

11. As of July 16, 2019, the total amount owed to movant: \$281,227.25.

12. Estimated equity (paragraph 10 minus paragraph 11): \$-31,227.25.

13. As of July 16, 2019, the total pre and post-petition arrearages: \$25,001.12.

14. As of July 16, 2019, the total post-petition arrearages: \$2,098.43.

15. Amount of unpaid, past due property taxes, if applicable: N/A.

16. Expiration date on insurance policy, if applicable: N/A.

17.   X   Movant seeks relief based on the debtor(s)' failure to make payments, lack of equity in the collateral, and the surrender of the collateral by Debtor. Debtor(s)' payment history is attached as exhibit "A". Movant represents that the attached payment history is a current payment history reflecting all payments, advances, charges and credits dating as far back as the Movant was able to obtain records for the loan and that the loan was current at the time the pay history begins or became current sometime thereafter and this fact is reflected on the payment history. Movant further represents that the payment history is self explanatory or can be interpreted by application of coding information that is also attached. Movant acknowledges that the Court may prohibit the use of parol evidence to interpret a payment history that does not satisfy these representations.

18.        Movant seeks relief based on the debtor(s)' failure to provide a certificate of insurance reflecting insurance coverage as required by the debtor's pre-petition contracts.

19. Name of Co-Debtor: Not Applicable

20. Based on the foregoing, movant seeks termination of the automatic stay to allow movant to foreclose or repossess the debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 12.

21. Movant certifies that prior to filing this motion an attempt was made to confer with the Debtor(s)' counsel (or with Debtor(s), if *pro se*) either by telephone, by email or by facsimile, by the following person on the following date and time:

Mitchell Buchman sent an email to debtor's counsel and the trustee regarding this property.

July 19, 2019 at 10:19 a.m.

An agreement could not be reached. If requested by debtor and debtor's counsel, a payment history in the form attached to this motion was provided at least two days, excluding intermediate weekends and holidays, before this motion was filed.

Date: 07/23/2019

/s/ MITCHELL BUCHMAN

MITCHELL BUCHMAN

TX NO. 03290750

S.D. TX NO. 6328

1900 ST. JAMES PLACE SUITE 500

HOUSTON, TX 77056

Telephone: (713) 621-8673

Facsimile: (713) 621-8583

E-mail: SDECF@BDFGROUP.COM

ATTORNEY FOR MOVANT

**Certificate of Service and Certificate of Compliance with BLR 4001**

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on July 23, 2019 via electronic means as listed on the Court's ECF Noticing System or by prepaid United States first class mail. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

/s/ MITCHELL BUCHMAN

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HOUSTON, TX 77056

Telephone: (713) 621-8673

Facsimile: (713) 621-8583

E-mail: SDECf@BDFGROUP.COM

ATTORNEY FOR MOVANT

**EXHIBIT 1**

**DEBTORS:**

WILLIAM S. MARTIN  
936 WHITENING LN  
936 WHITENING LN  
COLLEGE STATION, TX 77840

WILLIAM S. MARTIN  
1470 MERION DR  
MOUNT DORA, FL 32757-8721

JENNIFER A MARTIN  
936 WHITENING LN  
COLLEGE STATION, TX 77840

JENNIFER A MARTIN  
1470 MERION DR  
MOUNT DORA, FL 32757-8721

**TRUSTEE:**

RANDY W. WILLIAMS  
7924 BROADWAY  
SUITE 104  
PEARLAND, TX 77581

**US TRUSTEE:**

515 RUSK AVE  
SUITE 3516  
HOUSTON, TX 77002

**DEBTOR'S ATTORNEY:**

FRANK STEELMAN  
1810 GREENFIELD PLAZA  
BRYAN, TX 77802

**PARTIES IN INTEREST:**

None

**PARTIES REQUESTING NOTICE:**

SYNCHRONY BANK C/O PRA RECEIVABLES MANAGEMENT, LLC  
VALERIE SMITH  
PO BOX 41021  
NORFOLK, VA 23541